REMARKS

Claims 1, 2, 4, 6, 8, 13-16, 18, 21, and 48-57 are now presented for examination. Claims 21 and 55 have been amended. Claims 19-20 have been cancelled, without prejudice and without disclaimer of subject matter. Claims 56-57 have been added. Claims 1 and 55 are independent.

On page 2 of the Office Action, Claims 1, 4, 6, 8, 13, 19-21, and 48-55 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gilbert (US Patent No. 6,961,622) in view of North et al. (US Patent No. 7,142,923) and Liss et al. (US Patent No. 5,851,223). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion, motivation or rationale either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The cited combination fails to disclose or suggest all the claimed features.

Independent Claim 1 recites, in part, "the apparatus outputs a plurality of electrical pulses, the plurality of electrical pulses including a first electrical pulse ***substantially larger*** than a plurality of subsequent substantially square waveform pulses." (emphasis added). Independent Claim 55 recites, "the plurality of electrical pulses including a first electrical pulse having an amplitude at least ***twice as large*** as an amplitude of a plurality of subsequent substantially square waveform pulses," (emphasis added). New Claims 56-57 recite, in part, "wherein the first electrical pulse is greater than two times larger than a plurality of subsequent substantially square

waveform pulses," and "wherein the first electrical pulse is approximately ten times larger than a plurality of subsequent substantially square waveform pulses," respectively.

Page 3 of the Office Action cites Liss et al as disclosing this claimed feature. However, Liss discloses, "the present invention can be used, with the electrodes placed as describe, and the intensity is increased until the patient feels any of the typical stimulation sensations (itching, pins and needles, warmth, or an insect-biting sensation). The intensity is then decreased and maintained ***just at subthreshold of this sensation***." (Col. 10:49-53)(emphasis added). Liss' disclosed operation of reducing the intensity to ***just below*** its previous level does not equate to or suggest the claimed first amplitude "substantially larger" or "twice as large" as subsequent pulses, as stated in Claims 1 and 55. To the contrary, such a minute reduction in intensity teaches away from the claimed substantial difference between pulses. The Gilbert and North references further fail to disclose this feature.

Accordingly, the cited references, whether considered alone or in combination, fail to teach or suggest all the claim limitations. The obviousness rejection is thus unsupported by the art, and applicant respectfully requests its withdrawal. The remaining claims are each dependent either directly or indirectly from one or another of independent Claims 1 and 55, discussed above. These claims recite additional limitations which, in conformity with the features of their corresponding independent claim, are not disclosed or suggested by the art of record. The dependent claims are therefore believed patentable. However, the individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

On page 5 of the office Action, Claims 2 is rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to Claim 1 and further in view of Silverstone (US

Patent No. 6,351,674). Claim 2 is believed to be allowable as it depends from independent Claim 1.

On page 5 of the Office Action, Claims 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to Claim 1 and further in view of Thomas (US Patent No. 5,107,835). Claims 14-15 are believed to be allowable as they depend from independent Claim 1.

On page 6 of the Office Action, Claim 16 is rejected under 35 U.S.C. §013(a) as being unpatentable over the references as applied to claim 1 and further in view of DiLorenzo (US Patent Application Publication No. 2003/0018367). Claim 16 is believed to be allowable as it depends from independent Claim 1.

On page 7 of the Office Action, Claim 18 is rejected under 35 U.S.C. §013(a) as being unpatentable over the references as applied to Claim 1 and further in view of Zilber (US Patent No. 3,822,708). Claim 18 is believed to be allowable as it depends from independent Claim 1.

For all of the above reasons, the claim objections are believed to have been overcome placing Claims 1, 2, 4, 6, 8, 13-16, 18, 21, and 48-57 in condition for allowance, and reconsideration and allowance thereof is respectfully requested.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

The Commissioner is hereby authorized to credit overpayments or charge payment of any additional fees associated with this communication to Deposit Account No. 502104.

Respectfully submitted,

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